

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

www.montgomerycountymd.gov/mc/council/board.html

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, October 29, 2003, 9:00 A.M.

ACTION CALENDAR:

1. **A-5926, Appeal of James J. Levin.** Letter from Kinley R. Dumas, Esquire, entering the appearances of Kinley R. Dumas and Stephen J. Orens, Esquire and moving to intervene on behalf of Habib Ahmadizadeh and Tahereh Safari, owners of the subject property.

Action: (1) Granted request to intervene; (2) pre-hearing statements required for all parties of record, (LLM/AIF, 4-0).

2. **A-5929, Appeal of Darin R. Bartram and Clifford J. Scharman.** Letter from Pelayo Coll, Esquire: requesting to intervene on behalf of Spring Bilingual Montessori School tenant at the subject property. Also included is a letter from Philip Cantor, requesting to intervene on behalf of himself and Mark L. Cantor, and requesting a continuance due to their unavailability on the currently scheduled hearing date.

Action: (1) Granted request to intervene to Spring Bilingual Montessori School; (2) request to intervene from Mr. Castor's deferred for confirmation of his relationship to the subject property, consensus.

3. **A-5937, Appeal of Michael and Susan Gelman Et. Al.** Letter from Todd D. Brown, Esquire, with Motion to Intervene on behalf of Nicole and Lee Jundanian, owners of the subject property.

Action: Granted request to intervene, (LLM/AIF, 4-0).

4. **A-5943, Appeal of Robert A. & Dawn E. Borchers.** Variance application, accessory structure side yard, side yard setback. Request for expedited hearing. Public hearing currently scheduled for November 26, 2003.

Action: Denied expedited hearing request, (AMC/LLM, 4-0).

5. **CBA-1206-F, Petition of Congressional Country Club, Inc.** Letter from Jody Kline, Esquire, requesting an administrative modification. [Large Exhibit].

Action: Granted administrative modification, (AIF/AMC, 4-0).

6. **CBA-1220 [CBA-2103], Petition of Briggs, Wamsley and Samperton [Governor's House Motel].** Memorandum from Stanley N. Garber clarifying his memorandum and request dated July 18, 2003 (item returning from October 8, 2003 WS).

Action: No action taken by the Board.

7. **CBA-1743, Petition of Calverton Swim Club, Inc.** Letter from Patrick J. Byrne, Board Member, requesting an administrative modification. [Large Exhibit].

Action: Item deferred for receipt of a site plan.

8. **CBA-1867, Petition of Jewish Community Center of Greater Washington.** Letter from Stacey Silber, Esquire, requesting an administrative modification. [Large Exhibits].

Action: Granted administrative modification, (AMC/AIF, 4-0).

9. **CBA-2196, Petition of Chevron, USA** Administrative Modification Request and report from MNCPPC technical staff on administrative modification requested at February 5, 2003 WS. Also included is email correspondence between Yum Yu Cheng, Esquire and Greg Cooke of the Maryland State Highway Administration.

Action: (1) Re-opened the record to include correspondence from MNCPPC, Ms. Cheng and Mr. Cooke; (2) granted transfer and an administrative modification, (AMC/AIF, 4-0).

10. **S-1073, Petition of William Hold.** Memorandum dated October 14, 2003 from Wright A. Jolly, Housing Code Inspector, reporting on violations and an abatement order from District Court for Montgomery County.

Action: Schedule Show Cause Hearing, (LLM/AMC, 4-0).

11. **S-1684, Petition of John Deere Landscapes.** Letter from Gerald Lee Miller, Jr., P.E. requesting an administrative modification. [Large Exhibit].

Action: Granted administrative modification subject to approved subdivision plan, (AIF/AMC, 4-0).

12. **S-2060, Petition of Taco Bell Corporation.** Memorandum dated October 13, 2003, from Stanley N. Garber, Zoning Investigator, recommending revocation of the special exception as not implemented.

Action: Revoked special exception for failure to implement, (LLM/AMC, 4-0).

13. **S-2577, Petition of Toler Funeral Home.** Letter from Stanley D. Abrams, Esquire, requesting reconsideration of the Board's September 30, 2003 Resolution to Dismiss the application, and re-hearing on the merits.

Action: Item deferred for future Worksession.

DECISION ITEM:

14. **A-5922, Petition of Stanley Smith.** Application for a rear lot line variance, existing covered porch, Board hearing was October 8, 2003, record open. Also included is correspondence from Steven A. Robins, Esquire and Martin J. Hutt Esquire, on behalf of the Petitioner.

Action: Failure for lack of a majority, (AMC/DHS, for/LLM/AIF, against).

DISCUSSION ITEM :

15. Letter dated October 10, 2003, from Stanley D. Abrams, Esquire, requesting partial waiver of the filing fee for modification of a cable communication system special exception.

Action: Denied request for waiver of filing fee, (LLM/AMC, 4-0).

PENDING ITEMS:

15. **CBA-916 [S-615], Petition of The Public Health Service Club, Inc. and The Foundation for Advanced Education in the Sciences, Inc.** (private club). Letter to the Board from Lois W. Kochanski, Executive Director, requesting an administrative modification and the deletion of one of the special exception holders. Item deferred for confirmation of the deletion of Public Health Service Club as a special exception holder.

16. **CBA-1332, Petition of Huggins and Harrison, Inc.** (outdoor automobile sales lot). Letter to the Board from the petitioner requesting an administrative modification. Item deferred for additional information. Board requests a site plan with dimensions that shows the location of the trailer in relation to the property's boundary lines.
17. **CBA-1620, Petition of Jack Coopersmith** (automobile filling station). Letter to the Board from John R. Barr, Esquire, requesting a transfer and an administrative modification. Also included is a letter of support from the Darnestown Civic Association. (Large exhibits: site and construction details plans). Referred to the M-NCPPC Technical Staff for review.
18. **CBA-2180 and S-254, Petition J. H. Burton and Sons, of Hyattsville, Inc.** (horticultural nursery and commercial greenhouse). Letter to the Board from Kevin P. Fay, Esquire, requesting the record to be re-opened to admit a June 11, 1999 site plan. Item deferred to allow Board time to review file.
19. **CBA-2196, Petition Chevron U.S.A.** (automobile filling station). Letter to the Board from C. Robert Dalrymple, Esquire, and Yum Yu Cheng, Esquire, requesting a transfer and an administrative modification. (Large exhibits: concept plan, survey and plot plan). Request referred to staff for comment.
20. **CBA-2709, Petition of Leonard Tempchin, et al t/a Silver Spring Associates** (off-street parking). Letter to the Board from Avi Halpert, Property Manager, requesting an administrative modification. Also included is a memorandum from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Item deferred to next available Worksession.

PENDING ITEMS (continued):

21. **S-569, [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery). Letter of complaint to the Board from David C. Gardner, Esquire, regarding the special exception use. Board requests DPS inspection of the special exception property.
22. **S-858, Petition of Surjeet K. Singh** (child day care facility). Letter to the Board from the petitioner requesting an administrative modification. Also included is a memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Item deferred for review by DPS of trash enclosure, stockade fence, existing and proposed landscaping and use of pool.
23. **S-1064, Petition of Greentech Landscaping, Inc.** (horticultural nursery and greenhouse). Letter to the Board from Leon Trager and Andrew Sebastian, requesting a transfer and an administrative modification. Deferred for review by M-NCPPC Technical Staff.

24. **S-1751, Petition of Hanna D. Saah** (boardinghouse). Memorandum to the Board from Stanley N. Garber, Zoning Investigator, DPS, regarding the inspection of the special exception. Letter will be sent to the petitioner to determine what future action he proposes for the special exception property.

25. **S-2476, Petition of Safeway, Inc.** (automobile filling station). Hearing Examiner's Report and Recommendation. Also included is a letter from C. Robert Dalrymple, Esquire, and Anne C. Martin, Esquire. Item deferred for a future Worksession.

26. **S-2477, Petition of American Tower Corporation and AT&T Wireless Services** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from John R. D. Copley. Referred to DPS for review.

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman - ABSENT
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist